

# राष्ट्रिय पारलैङ्गिक मागपत्र

## National Transgender Demand Sheet (English translation)

### Transgender - Pāralaingik

The National Transgender Demand Sheet of Nepal was originally written in Nepali language. This is the English translation of it. The Nepali document contained four different sections: 1. List of demands put forth, 2. Definitions, 3. National and international practises / standards regarding the issue, 4. The journey to this outcome (the demand sheet). The full document hasn't been translated. This is a summary translation only. This translation is intended for international audience to get the grasp of the core idea about the demand sheet.

This demand sheet is particularly about the binary transgender population (Read more about the history of gender identity movement and exclusion of binary trans persons in the fourth section)

This English translation is nearest version to the original document and as for the translation nuances, Nepali version should be referred as official. This English translation could be more elaborative from the official Nepali version, for the reason that things seemingly obvious to the Nepali audience might not be obvious for the international audience.

### **Demands:**

1. There should be provision for transgender women to mention "Female" and transgender men to mention "Male" in their gender markers.
2. There should be provision for people to amend their already acquired documents that mentions their sex assigned at birth and name assigned by parents, in their gender identity (their self-identified gender/lived gender) and the name they prefer.
  - i) There should be provision for people who haven't yet acquired their citizenship certificate (being under the age of 16 or due to some other reasons) to get their paperworks (birth certificate, educational certificates, minor passport, etc) that mentions their sex assigned at birth and name assigned by parents be amended and re-issued in their gender

identity (their self-identified gender/lived gender) and the name they prefer. *The age eligibility for citizenship certificate in Nepal is 16.*

- ii) There should be provision for people who've already acquired a citizenship certificate mentioning their sex assigned at birth and name assigned by parents to be amended and re-issued in their gender identity (their self-identified gender/lived gender) and the name they prefer. And based on the amendment of the citizenship, other documents (birth certificate, educational certificate, passport, voter ID, land documents, etc) be amended and re-issued too.
- iii) Before the aforementioned provisions be formulated, transgender men and women have been provided citizenship certificate mentioning "Others" in the gender. There should be a provision for these transgender men and women who've been provided of the citizenship referring as "Others" due to lack of laws to be able to amend their citizenship based on their gender identity as Male or Female.

**Elaboration:** Nepal has a rigid law with regards to alignment of required details for paperwork. After a child is born, they are assigned a gender based on their genitalia. Their parents / guardians assign them a name. That is documented in their birth certificate. When the child is sent to a school, their birth certificate must be present and all the documents / paperworks in the schools must be congruent to their birth certificate. In Grade 8, children go through an examination conducted by the local government called Basic Level Examination. Until 2015, this used to be called District Level Examination and organized by District Education Office. (The administrative divisions and its functions changed with the promulgation of New Constitution.) To fill in the registration of this examination, the details filled in the form should be congruent to their birth certificate and school documentation. Both of them should be attached with the form. In Grade 10, children go through Secondary Education Examination (SEE). Before the change in structures of the country and the education system, it was known as School Leaving Certificate (SLC). Until 2015, Grade 10 was the last year at school. Grade 11 and 12 were called +2 (Plus two). Now with the New Education system since 2016, +2 has also been assimilated into school. While someone fills a form to register for this examination, the details must be congruent with both their birth certificate and Grade 8 marksheet. While a person reaches the age of 16, age eligibility to acquire a citizenship, they are required to present their Grade 10 SEE (SLC in past) certificate, their birth certificate and other required documents. Their personal documents, i.e. Grade 10 certificate and birth certificate are attached in the form filled to acquire a citizenship certificate. All the details in the form,

and both the certificate must be congruent. The provision is so strict that even small spelling mistakes would cause a big trouble.

There is no way an individual can choose to change their legal name. The compulsion of congruency with whatever is assigned to you after 30 days of your birth is likely to stick to rest of your life and even after your death (in the death certificate).

3. Gender identity is self-identified, completely personal and self-declared. The society, state, law or any third party cannot decide over someone's gender identity. Self-declaration should be the only basis / requirement for someone to be able to change their names and gender marker. There should be a simple administrative process with regards to this.

4. Transgender women should be referred with feminine gender language and transgender men should be referred with masculine gender language. Misgendering or deadnaming someone should be seen as verbal and mental misbehaviour.

5. The law, policies and behaviours should see transgender women under the umbrella of women and transgender men under the umbrella of men.

6. We do not support collection of gender data in an irrelevant way. No one should be forced to disclose that they are transgender in a way they feel uncomfortable and unsafe, in an unnecessary and irrelevant situation considering their concerns of privacy and security in the society. The state should not reveal / disclose / public any data and description of transgender persons without their consent, in a way that their privacy is breached and in a way they can be uniquely identified. There should be policies about data privacy concerning any data leak regarding the information of transgender persons and its impacts on their lives.

7. There shouldn't be any sort of requirement in order to be able to acquire one's gender identity and preferred name, that violates an individual's self respect and dignity, violates other human rights of the person, violates the right of the individual's bodily integrity, creates an irreversible damage to their body, violates one's agency over self-determining and breaches their individual freedom. These shouldn't just be about the legal requirements but also about behaviour, such as asking unnecessary questions, misbehaving and insulting language, verbal harassment and any sort of transphobic behaviour.

Transgender people experience discrimination, violence and stigma at all levels and across all sectors. When state does not formulate policies that are appropriate, these experiences are enabled. This demand sheet particularly talks about gender recognition of transgender men and women.

It took us almost 6 months to be able to present this demand sheet. We spent 3 months in identifying transgender men and women who wanted to be a part of this conversation and 3 months in discussions to shape this final outcome.

On 7 March 2020, 24 transgender men and women from 7 provinces of Nepal gathered in the premises of LOOM Nepal, Thapathali, Kathmandu to finalize this document after 3 months of rigorous online discussions and editing over google doc. The document was released on 31 March 2020 - International Transgender Day of Visibility.

### **Context for the demand sheet:**

The movement of individuals who do not conform or fit into social norms about gender, has passed more than a decade in Nepal and even longer around different parts of the globe. While the conversations on gender identity has been prominently about 'third gender', our experiences have been that those voices of the transgender population who do not identify as either Male or Female, have been suppressed. Moreover, while transgender and third gender are two different things, two different concepts, two different identities they've been lumped into and often confused under the legal diction as 'Other gender'. We have never had a conversation in Nepal with transgender people who identify within the binary as Male or Female. When we talk about issues of gender identity, it has always been about third gender people and the voices of trans people have been erased and not reached the mainstream. Infact many binary trans individuals voices were deliberately suppress as being "western" and "too modern". The law also does not support for people to change their gender markers from Male to Female or Female to Male without a sex reassignment surgery.

Therefore the objective of this discussion and demand sheet is to raise and amplify the voicesof transgender men and women in the binary.

### **National Standards**

1. The Constitution of Nepal – Chapter 2 (12), Chapter 3 (18,16)
2. Supreme Court Verdict of 2073 B.S. 070-WO-0287

3. Individual Privacy Act 2075 – Chapter 2 – Individual’s body and family privacy
4. Kaanun Tarju ma Digdarshan (The guidance about legal language) Chapter 2 – Structure of legal sentences

## International Standards

1. American Psychological Association  
<https://www.apa.org/topics/lgbt/transgender>
2. Ontario Human Rights Commission: Policy on preventing discrimination because of gender identity and expression  
<http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>
3. Ontario Human Rights Commission: Policy on discrimination and harassment because of gender identity  
[http://www.ohrc.on.ca/sites/default/files/Policy\\_on\\_discrimination\\_and\\_harassment\\_because\\_of\\_gender\\_identity.pdf](http://www.ohrc.on.ca/sites/default/files/Policy_on_discrimination_and_harassment_because_of_gender_identity.pdf)
4. US California Gender Recognition Act Senate Bill No. 179 CHAPTER 853  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB179](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB179)
5. New York City Commission on Human Rights Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression: Local Law No. 3 (2002); N.Y.C. Admin. Code § 8-102  
<https://www1.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page>
6. UN Transgender Fact Sheet  
<https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Transgender.pdf>
7. World Health Organization FAQ on Health and Sexual Diversity : An Introduction to Key Concepts  
<https://www.who.int/gender-equity-rights/news/sexual-gender-diversity-faq.pdf>
8. World Professional Association for Transgender Health Identity Recognition Statement  
<https://www.wpath.org/media/cms/Documents/Web%20Transfer/Policies/WPATH%20Identity%20Recognition%20Statement%2011.15.17.pdf>
9. Protection against violence and discrimination based on sexual orientation and gender identity (A/73/152) <https://undocs.org/en/A/73/152>
10. Report of the Special Rapporteur on the right to privacy (A/HRC/43/52)  
[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A\\_HRC\\_43\\_52\\_AdvanceUneditedVersion.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A_HRC_43_52_AdvanceUneditedVersion.docx)
11. Yogyakarta Principles : <https://yogyakartaprinciples.org/>